

Apr 08, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

KELLY O'KELL,

Plaintiff,

v.

DAVID BERNHARDT, in his official
capacity as Secretary of the United States
Department of the Interior,
Defendant.

NO. 2:18-CV-00279-SAB

**ORDER DENYING MOTIONS
FOR SUMMARY JUDGMENT;
MOTION FOR SANCTIONS**

Before the Court are Defendant's Motion for Summary Judgment, ECF No. 26; Defendant's Motion for Partial Summary Judgment, ECF No. 28, and Plaintiff's Motion for Sanctions, ECF No. 30. Plaintiff is represented by Matthew Crotty and Michael Love. Defendant is represented by Vanessa Waldref. The motions were heard without oral argument.

Plaintiff is a former employee of the Bureau of Reclamation, Department of Interior. Plaintiff alleges she did not receive a promotion due to her age, and then after she complained she was retaliated against for filing an Equal Employment Opportunity (EEO) complaint. Defendant asserts it had legitimate reasons for not promoting and disciplining Plaintiff and ultimately terminating her. The credibility of Plaintiff and the various witnesses is at the heart of this matter. Because there

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1 are genuine issues of material fact as to the legitimacy of Defendant's proffered
2 reasons for not promoting, disciplining and terminating Plaintiff, summary
3 judgment is not appropriate. *See Wallis v. J.R. Simplot Co.*, 26 F.3d 885, 890 (9th
4 Cir. 1994).

5 Similarly, Defendant's Motion for Partial Summary Judgment and Plaintiff's
6 Motion for Sanctions depend on the credibility of witnesses. Defendant's request
7 to limit damages can be addressed at trial. Likewise, if, at trial, Plaintiff shows that
8 Defendant withheld evidence, the Court can fashion an appropriate remedy at that
9 time.

10 Accordingly, **IT IS ORDERED:**

- 11 1. Defendant's Motion for Summary Judgment, ECF No. 26, is **DENIED**.
- 12 2. Defendant's Motion for Partial Summary Judgment on Damages, ECF
13 No. 28, is **DENIED**.
- 14 3. Plaintiff's Motion for Sanctions, ECF No. 30, is **DENIED**.

15 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
16 this Order and to provide copies to counsel.

17 **DATED** this 8th day of April 2020.



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A handwritten signature in blue ink, reading "Stanley A. Bastian".

24 Stanley A. Bastian
25 United States District Judge
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